



**TOR  
EKELAND, P.C.**  
ATTORNEYS AT LAW

TOR EKELAND

tor@torekeland.com  
(718) 515-6849 phone  
(718) 504-5417 fax

April 11, 2014

**VIA ECF**

Hon. Susan D. Wigenton  
United States District Judge  
District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

**Re: United States v. Andrew Auernheimer, Criminal No. 2:11-cr-00470-001**

Dear Judge Wigenton:

As this Court is no doubt aware, defendant Andrew Auernheimer's conviction was reversed and vacated this morning by the Third Circuit Court of Appeals. Mr. Auernheimer is currently serving a 41-month sentence at Allenwood Low federal correctional facility. He is currently being held in the segregated housing unit (SHU), being denied access to reading material and correspondence, and his privileged attorney-client mail is being intercepted and opened.

Mr. Auernheimer respectfully moves this Court for an Order granting his immediate release from custody under the same terms of his supervised release that applied pre-trial, as the indictment technically still stands. We hope that this Court will accept this letter motion in lieu of a more formal application. The Government agrees that bail is appropriate and therefore does not oppose this application. Mr. Auernheimer respectfully moves this Court pursuant to the Third Circuit of Appeals' opinion and judgment in this matter issued on April 11, 2014, No. 13-1816, reversing the order of the District Court entered on October 26, 2012 and vacating Mr. Auernheimer's conviction entered March 18, 2013. A copy of the opinion and the judgment ordered and adjudged by the Third Circuit Court of Appeals is attached.

The text of the judgment reads, in part:

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was argued by March 19, 2014.

On consideration whereof, it is now hereby ORDERED and ADJUDGED by this Court that the order of the District Court entered



October 26, 2012 is hereby REVERSED and the Appellant's conviction, entered March 18, 2013 is hereby VACATED. The mandate shall issue forthwith. All of the above with the opinion of this Court.

Mr. Auernheimer will be filing a motion to dismiss the indictment on Monday given the fact that under the Third Circuit's decision there is no basis for venue in the District of New Jersey. Mr. Auernheimer respectfully asks that this Court grant this letter motion for immediate release from federal custody.

Respectfully submitted,

Tor Ekeland

cc: Paul Fishman  
United States Attorney, New Jersey

Zach Intrater  
Assistant United States Attorney  
Newark, New Jersey  
tel. (973) 645-2728  
[zach.intrater@usdoj.gov](mailto:zach.intrater@usdoj.gov)

Christopher Kelly  
Assistant United States Attorney  
Newark, New Jersey  
[christopher.kelly2@usdoj.gov](mailto:christopher.kelly2@usdoj.gov)

Tor Ekeland  
Tor Ekeland, P.C.  
195 Plymouth St., 5th Fl.  
Brooklyn, New York 11201  
tel. 718-285-9343  
fax 718-504-5417  
[tor@torekeland.com](mailto:tor@torekeland.com)

Attorney for Defendant  
Andrew Auernheimer

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

X _____ X	:	
UNITED STATES OF AMERICA,	:	Criminal No. <u>2:11-cr-00470-001</u>
	:	
Plaintiff,	:	
	:	
v.	:	[PROPOSED] ORDER FOR
	:	IMMEDIATE RELEASE
	:	FROM CUSTODY
	:	
ANDREW AUERNHEIMER,	:	
	:	
Defendant.	:	
	:	
X _____ X	:	

Upon letter motion of the defendant Andrew Auernheimer, by his counsel, and upon good cause being shown,

**IT IS HEREBY ORDERED** that the Clerk of the Court shall issue an Order granting defendant Andrew Auernheimer's immediate release from custody of the federal Bureau of Prisons under the same terms of his supervised release that applied pre-trial, pursuant to a Third Circuit Court of Appeals opinion and judgment in this matter issued on April 11, 2014, No. 13-1816, reversing this Court's order entered on October 26, 2012, and vacating Mr. Auernheimer's conviction entered March 18, 2013.

SO ORDERED.

Dated: April 11, 2014  
Newark, New Jersey

---

HON. SUSAN D. WIGENTON  
United States District Judge